

**IN THE COURT OF APPEALS**  
**FIRST APPELLATE DISTRICT OF OHIO**  
**HAMILTON COUNTY, OHIO**

IN RE: THE B. & C. CHILDREN	:	APPEAL NOS. C-160520
		C-160536
	:	TRIAL NO. Foo-970Z
	:	<i>JUDGMENT ENTRY.</i>

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.1.

Appellant mother appeals the decision of the Hamilton County Juvenile Court granting legal custody of one of her children, M.C., to his paternal grandmother. The record shows that Hamilton County Job and Family Services (“HCJFS”) removed M.C. and his two siblings from mother’s care. They were adjudicated abused and dependent children, and temporary custody was granted to HCJFS. After several years and a number of placements, HCJFS placed the child in his grandmother’s care, and she filed a petition for legal custody. HCJFS also filed a motion asking the juvenile court to terminate temporary custody to the agency and grant grandmother legal custody of the child. The juvenile court found that it was in the child’s best interest for him to remain in grandmother’s care and granted the motion. This appeal followed.

In her sole assignment of error, mother contends that the trial court erred in granting HCJFS’s motion to terminate temporary custody and grant legal custody to

grandmother. She argues that the evidence showed that she had made substantial progress in remedying the conditions that caused the child to be removed from her home and that she was capable of raising her own child. This assignment of error is not well taken.

We first note that mother incorrectly argues that HCJFS had to prove by clear and convincing evidence that it was in the child's best interest to be placed with grandmother. Clear and convincing evidence is the standard to be applied when a children's services agency moves for permanent custody of a child and to terminate parental rights. See *In re K.H.*, 119 Ohio St.3d 538, 2008-Ohio-4825, 895 N.E.2d 809, ¶ 42; *In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 46-49.

Under former R.C. 2151.353(A)(3), if a juvenile court finds a child to be an abused, dependent or neglected child, it may award legal custody to any person who has filed a petition for legal custody. *In re Needom*, 1st Dist. Hamilton Nos. C-080107 and C-080121, 2008-Ohio-2196, ¶ 14. The juvenile court has discretion to determine what placement option is in the child's best interest, and an appellate court will not reverse its decision absent an abuse of discretion. *In re Patterson*, 1st Dist. Hamilton No. C-090311, 2010-Ohio-766, ¶ 15. An abuse of discretion exists if the court's decision regarding the child's best interest is not supported by competent, credible evidence. *In re D.M.*, 1st Dist. Hamilton No. C-140648, 2015-Ohio-3853, ¶ 11.

The record shows that the juvenile court considered all relevant factors in determining what award of custody would be in the child's best interest. See R.C. 2151.23(F)(1) and 3109.04(F). The weight to be given to the individual factors was within the court's discretion. An appellate court must defer to the trial court's

findings “regarding the weight to be given to any evidence because the trial court is in the best position to make that determination.” *Linde v. Linde*, 1st Dist. Hamilton No. C-940944, 1996 WL 97563, \*4 (Mar. 6, 1996), citing *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77, 461 N.E.2d 1273 (1984).

Competent, credible evidence supported the juvenile court’s finding that it was in the child’s best interest to award custody to grandmother, and this court will not disturb it. *See Patterson* at ¶ 20; *Needom* at ¶ 19. The trial court did not abuse its discretion in awarding custody of the child to grandmother. *See Patterson* at ¶ 20; *Needom* at ¶ 19. Consequently, we overrule mother’s assignment of error and affirm the juvenile court’s judgment.

A certified copy of this judgment entry constitutes the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**MOCK, P.J., CUNNINGHAM and MILLER, JJ.**

To the clerk:

Enter upon the journal of the court on March 17, 2017  
per order of the court \_\_\_\_\_.  
Presiding Judge